

**Union Calendar No. 331**

103D CONGRESS  
2D SESSION

**H. R. 1426**

[Report No. 103-600]

**A BILL**

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

JULY 14, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mr. RICHARDSON introduced the following bill; which was referred to the Committee on Natural Resources

JULY 14, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 18, 1993]

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## A BILL

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Indian Dams Safety*  
3 *Act of 1993”.*

4 **SEC. 2. FINDINGS.**

5       *The Congress finds that—*

6           *(1) the Secretary of the Interior has identified 53*  
7 *dams on Indian lands that present a high hazard to*  
8 *human life in the event of a failure;*

9           *(2) because of inadequate attention in the past to*  
10 *problems stemming from structural deficiencies and*  
11 *regular maintenance requirements for dams operated*  
12 *by the Bureau of Indian Affairs, unsafe Bureau dams*  
13 *continue to pose an imminent threat to people and*  
14 *property;*

15           *(3) many Bureau dams have maintenance defi-*  
16 *ciencies regardless of their current safety condition*  
17 *classification and the deficiencies must be corrected to*  
18 *avoid future threats to human life and property;*

19           *(4) safe working dams on Indian lands are nec-*  
20 *essary to supply irrigation water, to provide flood*  
21 *control, to provide water for municipal, industrial,*  
22 *domestic, livestock, and recreation uses, and for fish*  
23 *and wildlife habitats; and*

24           *(5) it is necessary to institute a regular dam*  
25 *maintenance program, utilizing the expertise in the*  
26 *Bureau, Indian tribes, and other Federal agencies.*

1 **SEC. 3. DEFINITIONS.**

2 *As used in this Act:*

3 (1) *The term “Bureau” means the Bureau of*  
4 *Indian Affairs.*

5 (2) *The term “dam” has the same meaning given*  
6 *such term by the first section of Public Law 92–367*  
7 *(33 U.S.C. 467).*

8 (3) *The term “Secretary” means the Secretary of*  
9 *the Interior.*

10 **SEC. 4. DAM SAFETY MAINTENANCE PROGRAM.**

11 (a) *ESTABLISHMENT.*—*The Secretary shall establish a*  
12 *dam safety maintenance program within the Bureau to en-*  
13 *sure maintenance and monitoring of the condition of each*  
14 *dam identified pursuant to subsection (d) necessary to*  
15 *maintain the dam in a satisfactory condition on a long-*  
16 *term basis.*

17 (b) *REHABILITATION.*—*The Secretary shall perform*  
18 *such rehabilitation and repair work as is necessary to bring*  
19 *the dams identified pursuant to subsection (d) to a satisfac-*  
20 *tory condition. Upon the completion of rehabilitation work*  
21 *on each dam, the dam shall be placed under the dam safety*  
22 *maintenance program established pursuant to subsection*  
23 *(a) and shall be regularly maintained under the guidelines*  
24 *of such program.*

25 (c) *MAINTENANCE ACTION PLAN.*—*The Secretary shall*  
26 *develop a maintenance action plan, which shall include a*

1 *prioritization of actions to be taken, for those dams with*  
2 *a risk hazard rating of high or significant as identified pur-*  
3 *suant to subsection (d).*

4 *(d) IDENTIFICATION OF DAMS.—*

5 *(1) DEVELOPMENT OF LIST.—The Secretary*  
6 *shall develop a comprehensive list of dams located on*  
7 *Indian lands that describes the dam safety condition*  
8 *classification of each dam, as specified in paragraph*  
9 *(2), the risk hazard classification of each dam, as*  
10 *specified in paragraph (3), and the conditions result-*  
11 *ing from maintenance deficiencies.*

12 *(2) DAM SAFETY CONDITION CLASSIFICATIONS.—*  
13 *The dam safety condition classification referred to in*  
14 *paragraph (1) is one of the following classifications:*

15 *(A) SATISFACTORY.—No existing or poten-*  
16 *tial dam safety deficiencies are recognized. Safe*  
17 *performance is expected under all anticipated*  
18 *conditions.*

19 *(B) FAIR.—No existing dam safety defi-*  
20 *ciencies are recognized for normal loading condi-*  
21 *tions. Infrequent hydrologic or seismic events*  
22 *would probably result in a dam safety defi-*  
23 *ciency.*

24 *(C) CONDITIONALLY POOR.—A potential*  
25 *dam safety deficiency is recognized for unusual*

1       loading conditions that may realistically occur  
2       during the expected life of the structure.

3               (D) *POOR*.—A potential dam safety defi-  
4       ciency is clearly recognized for normal loading  
5       conditions. Immediate actions to resolve the defi-  
6       ciency are recommended; reservoir restrictions  
7       may be necessary until resolution of the problem.

8               (E) *UNSATISFACTORY*.—A dam safety defi-  
9       ciency exists for normal loading conditions. Im-  
10      mediate remedial action is required for resolu-  
11      tion of the problem.

12              (3) *RISK HAZARD CLASSIFICATION*.—The risk  
13      hazard classification referred to in paragraph (1) is  
14      one of the following classifications:

15              (A) *HIGH*.—Six or more lives would be at  
16      risk or extensive property damage could occur if  
17      the dam failed.

18              (B) *SIGNIFICANT*.—Between one and six  
19      lives would be at risk or significant property  
20      damage could occur if the dam failed.

21              (C) *LOW*.—No lives would be at risk and  
22      limited property damage would occur if the dam  
23      failed.

24              (e) *LIMITATION ON PROGRAM AUTHORIZATION*.—Work  
25      authorized by this Act shall be for the purpose of dam safety

1 maintenance. The Secretary may authorize, upon request  
2 of an Indian tribe, up to 20 percent of the cost of repairs  
3 to be used to provide additional conservation storage capac-  
4 ity or developing benefits beyond those provided by the  
5 original dams and reservoirs. This Act is not intended to  
6 preclude development of increased storage or benefits under  
7 any other authority.

8 (f) *TECHNICAL ASSISTANCE.*—To carry out the pur-  
9 poses of this Act, the Secretary may obtain technical assist-  
10 ance from other departments and agencies. Notwithstanding  
11 any such technical assistance, the dam safety program (es-  
12 tablished by the Secretary by order dated February 28,  
13 1980, to prevent dam failure and the resulting loss of life  
14 or serious property damage) and the dam safety mainte-  
15 nance program established under subsection (a) shall be  
16 under the direction and control of the Bureau.

17 (g) *CONTRACT AUTHORITY.*—In addition to any other  
18 authority established by law, the Secretary is authorized to  
19 contract with appropriate Indian tribes (as defined in sec-  
20 tion 4(e) of the Indian Self-Determination and Education  
21 Assistance Act (25 U.S.C. 450b(e))) to carry out the dam  
22 safety maintenance program established under subsection  
23 (a).

1       (h) *ANNUAL REPORT.*—*The Secretary shall submit an*  
2 *annual report on the implementation of this Act. The report*  
3 *shall include—*

4           (1) *the list of dams and their status on the*  
5 *maintenance action plan developed under this section;*  
6 *and*

7           (2) *the projected total cost and a schedule of the*  
8 *projected annual cost of rehabilitation or repair for*  
9 *each dam under this section.*

10 *The report shall be submitted at the time the budget is re-*  
11 *quired to be submitted under section 1105 of title 31, United*  
12 *States Code, to the Committee on Natural Resources of the*  
13 *House of Representatives and the Committee on Indian*  
14 *Affairs of the Senate.*

15 ***SEC. 5. AUTHORIZATION OF APPROPRIATIONS.***

16       *There is authorized to be appropriated such sums as*  
17 *may be necessary to carry out this Act. Funds provided*  
18 *under this Act are to be considered nonreimbursable not-*  
19 *withstanding any other authority to the contrary, and noth-*  
20 *ing in this Act shall be construed to change or amend exist-*  
21 *ing laws and related payment contracts with irrigation*  
22 *districts.*